

AMENDED IN ASSEMBLY MARCH 30, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1025

**Introduced by Assembly Member Skinner
(Coauthor: Assembly Member Buchanan)**

February 18, 2011

An act to amend Sections 1113, 1126, 1127, 1136, 1140, 1156, 1156.6, 1157, 1157.1, 1157.5, 1158.1, 1171, 1171.5, 1176, 1180, 1180.3, 1180.6, 1181, 1182, 1183, 1191, 1196, 1196.1, and 1196.3 of, to amend and renumber Section 1159.1 of, to add Section 1171.6 to, and to repeal Section 1142 of, the Harbors and Navigation Code, relating to bar pilots, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1025, as amended, Skinner. Harbors and ports: inland pilots.

Existing law provides for the regulation and licensing of pilots and inland pilots for the Bays of Monterey, San Francisco, San Pablo, and Suisun by the Board of Pilot Commissioners (board). Under existing law, any person who does not hold a license as a pilot or as an inland pilot and who pilots any vessel into or out of any harbor or port of the Bays of Monterey, San Francisco, San Pablo, or Suisun, or who acts as a pilot for ship movements or special operations upon the waters of any of those bays is guilty of a misdemeanor.

Existing law requires the board to adopt a continuing education program for pilots and inland pilots funded from fees from the surcharge for each movement of a vessel using pilot services.

Existing law requires the board to adopt training standards and a training program for pilot trainees.

This bill would delete all references to inland pilots from these provisions ~~also~~.

Existing law requires the executive director of the board to assign a commission investigator, if suspected equipment safety standard violations are reported to the board, to personally inspect the equipment for its compliance with the relevant safety standards. Existing law requires the commission investigator to report preliminary conclusions to the executive director. Existing law also requires the commission investigator to submit a report, that is required to remain confidential, to an incident review committee and the committee is required to report its findings, if any, to the board.

This bill would recast these provisions to instead require the executive director to perform investigations, make findings and recommendations, and report to the board regarding suspected equipment safety standard violations.

The bill would require an examination fee to be charged in an amount established by the board to each applicant to the training program who participates in any written or simulator examinations established by the board for the purposes of determining admission to the training program. The bill would require that the fee be charged only to those who actually participate in an examination and not exceed the administrative costs to the board of preparing and administering the examination. The bill would require that the moneys charged and collected from the applicant be paid to the board and deposited into the Board of Pilot Commissioners' Special Fund, a continuously appropriated fund, and be used only to fund the training program in the manner established by the board.

By increasing the amount of revenue deposited into a continuously appropriated fund and by authorizing the expenditure of money in that fund for a new purpose, the bill would make an appropriation.

Existing law requires the Governor to appoint one assistant director to serve at the pleasure of the Governor. Existing law requires the assistant director to have the duties as assigned by the executive director who is appointed by the Board of Pilot Commissioners.

This bill would require that the assistant director be appointed by the Secretary of Business, Transportation and Housing and serve at the pleasure of the secretary.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1113 of the Harbors and Navigation Code
2 is amended to read:

3 1113. “Inland pilot” means a person holding an inland pilot
4 license prior to January 1, 2011.

5 SEC. 2. Section 1126 of the Harbors and Navigation Code is
6 amended to read:

7 1126. (a) A person who does not hold a license as a pilot issued
8 pursuant to this division, and who pilots any vessel into or out of
9 any harbor or port of Monterey Bay and the Bay of San Francisco,
10 San Pablo, or Suisun, or who acts as a pilot for ship movements
11 or special operations upon the waters of any of those bays, is guilty
12 of a misdemeanor. In addition to the fines or other penalties
13 provided by law, the court may order that person to pay to the pilot
14 who is entitled to pilot the vessel the amount of pilotage fees
15 collected. No fees shall be paid for pilotage if a state-licensed pilot
16 refuses to join the vessel under paragraph (5) of subdivision (c).

17 (b) A person may also be enjoined from engaging in the pilotage
18 prescribed by subdivision (a) by a court of competent jurisdiction.

19 (c) This section does not apply to any of the following persons:

20 (1) The master of a vessel who has relieved the pilot to ensure
21 the safe operation of the vessel, but only from the point where the
22 pilot is relieved to the closest safe berth or anchorage, or the high
23 seas if closer than a safe berth or anchorage.

24 (2) Persons piloting vessels pursuant to the valid regulatory
25 authority of the Port of Sacramento or the Port of Stockton.

26 (3) Persons piloting vessels sailing under an enrollment, as
27 specified in Section 1127.

28 (4) Persons piloting vessels pursuant to Section 1179.

29 (5) Persons piloting vessels if a state-licensed pilot refuses to
30 join the vessel. However, a vessel may not hire a pilot not licensed
31 by the state until a representative of the vessel notifies the port
32 agent or his or her designee that the vessel will hire a pilot not
33 licensed by the state unless a state-licensed pilot offers to join the
34 vessel immediately. The port agent or his or her designee shall
35 notify the executive director of the board or his or her designee
36 that this paragraph applies.

37 (d) The exemption set forth in paragraph (5) of subdivision (c)
38 does not apply in instances in which a state licensed pilot refuses

1 to join a vessel because of suspected safety violations concerning
2 that vessel's pilot hoists or pilot ladders.

3 SEC. 3. Section 1127 of the Harbors and Navigation Code is
4 amended to read:

5 1127. (a) The Legislature finds and declares that it is the policy
6 of the state to ensure the safety of persons, property, and vessels
7 using the waters of Monterey Bay and the Bays of San Francisco,
8 San Pablo, and Suisun and to avoid damage to those waters and
9 surrounding ecosystems as a result of vessel collision or damage
10 by providing competent, efficient, and regulated pilotage for vessels
11 required by this division to secure pilotage services.

12 (b) This section does not supersede, modify, or otherwise alter
13 pilot practices that are not safety related, including, but not limited
14 to, the determination of rates charged for pilot services or
15 employer-employee relationships for individuals, agencies, or
16 organizations involved in providing pilotage services between any
17 port of Monterey Bay and the Bays of San Francisco, San Pablo,
18 and Suisun and any other port of the United States that is in
19 existence on December 31, 1995, or otherwise abridge the authority
20 of local port or harbor districts relating to pilotage in effect on
21 December 31, 1995.

22 (c) The board shall regulate pilotage on waters of the state as
23 provided in this division.

24 (d) A vessel sailing under a coastwise license or appropriately
25 endorsed registry and engaged in the coasting trade between a port
26 of Monterey Bay and the Bays of San Francisco, San Pablo, and
27 Suisun and another port of the United States is exempt from all
28 pilotage charges unless a pilot is actually employed. A foreign
29 vessel and a vessel bound between a foreign port and a port of
30 Monterey Bay and the Bays of San Francisco, San Pablo, and
31 Suisun, and a vessel sailing under a register between a port of
32 Monterey Bay and the Bays of San Francisco, San Pablo, and
33 Suisun and another port of the United States, shall use a pilot
34 holding a license issued pursuant to this division, except as
35 otherwise provided by law.

36 (e) Subdivision (d) does not apply to a vessel that is less than
37 750 gross tons and is manufactured and used for private recreation.

38 SEC. 4. Section 1136 of the Harbors and Navigation Code is
39 amended to read:

1 1136. A pilot licensed pursuant to this division shall do all of
2 the following:

3 (a) Take an oath of office in the manner prescribed by law.

4 (b) Submit monthly to the board a verified account of all moneys
5 or other compensation received by the pilot as a result of pilotage
6 services, or by any other person for the pilot, or on the pilot's
7 account, on the forms furnished by the board.

8 SEC. 5. Section 1140 of the Harbors and Navigation Code is
9 amended to read:

10 1140. (a) It is the intent of the Legislature to provide for a
11 unified system of state regulated pilotage for Monterey Bay and
12 the Bays of San Francisco, San Pablo, and Suisun.

13 (b) The Legislature finds and declares that unified pilotage will
14 be beneficial to the safety of people, vessels, and property using
15 those bays and tributaries.

16 (c) The Legislature further finds and declares that unified
17 systems of regulated pilotage are common to the ports of the world
18 and are most familiar to, and best able to serve, both foreign and
19 domestic vessels.

20 SEC. 6. Section 1142 of the Harbors and Navigation Code is
21 repealed.

22 SEC. 7. Section 1156 of the Harbors and Navigation Code is
23 amended to read:

24 1156. (a) The board may appoint, fix the compensation of,
25 and from time to time adjust the compensation of, an executive
26 director who is exempt from the civil service laws, and other
27 employees as may be necessary. The executive director may
28 perform all duties, exercise all powers, discharge all
29 responsibilities, and administer and enforce all laws, rules, and
30 regulations under the jurisdiction of the board, with the approval
31 of the board, including, but not limited to, all of the following:

32 (1) The administration of personnel employed by the board in
33 accordance with the civil service laws.

34 (2) To serve as treasurer of the board and keep, maintain, and
35 provide the board with all statements of accounts, records of
36 receipts, and disbursements of the board in accordance with the
37 law.

38 (3) The issuance and countersigning of licenses that shall also
39 be signed by the president of the board.

1 (4) The administration of matters and the maintenance of files
2 pertaining to action taken against licenses issued by the board.

3 (5) The administration of investigations of, and reporting on, a
4 navigational incident or other matter for which a license issued by
5 the board may be revoked or suspended.

6 (6) To work with board members, staff, and other interested
7 stakeholders to recommend improvements in the pilot training
8 program.

9 (7) Under the direction of the board, to coordinate with other
10 state and federal agencies charged with protecting the environment
11 and with the oil and hazardous chemical shipping industry.

12 (8) Any other function, task, or duty as may reasonably be
13 assigned by the president of the board, including, but not limited
14 to, performing research and obtaining documents and other
15 evidence for board activities, including rate hearings.

16 (b) The Secretary of Business, Transportation and Housing shall
17 appoint one assistant director to serve at the pleasure of the
18 secretary. The assistant director shall have the duties as assigned
19 by the executive director, and shall be responsible to the executive
20 director for the performance of his or her duties.

21 (c) The board may employ personnel necessary to carry out the
22 purposes of this chapter. All personnel shall be appointed pursuant
23 to the State Civil Service Act (Part 1 (commencing with Section
24 18000) of Division 5 of Title 2 of the Government Code), except
25 for the executive director and the assistant director, who shall be
26 exempt from state civil service. The board may fix the
27 compensation of, and from time to time adjust the compensation
28 of, any employees as may be necessary.

29 (d) All personnel of the board shall be appointed, directed, and
30 controlled by the board, the executive director, or the board's
31 authorized deputies or agents to whom it may delegate its powers.

32 (e) The board may contract and employ commission
33 investigators. The board shall adopt regulations for the minimum
34 standards for a commission investigator that shall include, but are
35 not limited to, a basic knowledge of investigative techniques and
36 maritime issues.

37 *SEC. 8. Section 1156.6 of the Harbors and Navigation Code*
38 *is amended to read:*

39 1156.6. (a) ~~Whenever~~*If* suspected safety standard violations
40 concerning pilot hoists, pilot ladders, or the proper rigging of pilot

1 hoists or pilot ladders are reported to the board, the executive
 2 director shall *investigate the report. The executive director may*
 3 *personally inspect or* assign a commission investigator to
 4 personally inspect the equipment for its compliance with the
 5 relevant safety standards promulgated by the United States Coast
 6 Guard and the International Maritime Organization.—The
 7 ~~commission investigator shall report preliminary conclusions,~~
 8 ~~including an assessment of the equipment's compliance with the~~
 9 ~~relevant safety standards, to the executive director as soon as~~
 10 ~~possible.~~ If, in the preliminary report *investigation*, the equipment
 11 is found to be in violation, or in likely violation in the opinion of
 12 the ~~commission investigator~~ *executive director*, of the relevant
 13 safety standards, the executive director shall immediately alert the
 14 cognizant United States Coast Guard office. The ~~commission~~
 15 ~~investigator shall submit a written report to the incident review~~
 16 ~~committee as established by subdivision (a) of Section 1180.3 that~~
 17 ~~shall remain confidential until reported to the board. The incident~~
 18 ~~review committee, in turn,~~ *executive director* shall report ~~its his~~
 19 ~~or her~~ findings and recommendations, if any, to the board. The
 20 board shall receive the ~~incident review committee's~~ *executive*
 21 *director's* findings, which may include other reports, information,
 22 or statements from interested parties. The board shall specify, by
 23 regulation, the information that shall be contained in the report.

24 (b) This section applies to the pilotage grounds, as defined in
 25 Section 1114.5. ~~Whenever~~ *If* a vessel passes outside of the pilotage
 26 grounds, the ~~commission investigator's~~ *executive director's* report
 27 shall include that fact along with a description of the incident.

28 (c) The record of the investigation and the board's findings and
 29 recommendations, if any, shall be a public record maintained by
 30 the board.

31 ~~SEC. 8.~~

32 *SEC. 9.* Section 1157 of the Harbors and Navigation Code is
 33 amended to read:

34 1157. The board shall keep a written record of all the board's
 35 proceedings and acts.

36 (a) The board shall also keep a complete record of each pilot
 37 appointed and licensed by the board that includes at a minimum,
 38 his or her current mailing address, residence, the date of the initial
 39 issuance and renewal of the license, the date of completion for
 40 initial and any subsequent training, and a record of any reports of

1 meritorious activities, commendation, misconduct, safety
2 violations, or other incidents or information related or relevant to
3 the issuance and use of his or her pilot license.

4 (b) All pilots licensed by the board shall provide the board with
5 written notice of any change of name, mailing address, or residence
6 within 30 days of that change in a manner prescribed by the board.

7 ~~SEC. 9.~~

8 *SEC. 10.* Section 1157.1 of the Harbors and Navigation Code
9 is amended to read:

10 1157.1. (a) Except as provided in Section 1157.4, all records
11 of the board relating to the personal information of a pilot, a pilot
12 trainee, or an applicant to the pilot trainee training program are
13 confidential and shall not be open to public inspection.

14 (b) For purposes of this section, “personal information” means
15 information, other than the name and mailing address, that
16 identifies an individual, including an individual’s photograph,
17 social security number, address, telephone number, and medical
18 or disability information, but does not include other information
19 related to licensing such as incidents, rules or safety violations,
20 misconduct, training records, commendations, and license status.

21 ~~SEC. 10.~~

22 *SEC. 11.* Section 1157.5 of the Harbors and Navigation Code
23 is amended to read:

24 1157.5. On or before April 15, 2010, and annually thereafter,
25 the board shall submit to the Secretary of the Senate, the Chief
26 Clerk of the Assembly, and the Secretary of Business,
27 Transportation and Housing a report describing the board’s
28 activities for the preceding calendar year. The report shall include,
29 but not be limited to, all of the following:

30 (a) The number of vessel movements across the bar, on the bays,
31 and on the rivers within the board’s jurisdiction.

32 (b) The name of each licensed pilot, and pilot trainee, and the
33 status of each person. If a person has had more than one status
34 during the reporting year, each status and the length of time in that
35 status shall be indicated. For the purposes of this section, “status”
36 includes all of the following designations:

37 (1) Licensed and fit for duty.

38 (2) Licensed and not fit for duty.

39 (3) Licensed and on authorized training.

40 (4) Licensed and on active military duty.

1 (5) Licensed and on leave of absence.

2 (6) Licensed but license suspended.

3 (c) A summary of each report of misconduct or a navigational
4 incident involving a pilot, or pilot trainee, or other matters for
5 which a license issued by the board may be revoked or suspended.
6 For those cases that have been closed, the summary shall include
7 a description of findings made by the incident review committee
8 and of the resulting action taken by the board. For those cases that
9 are still under investigation, the summary shall include a
10 description of the reported incident and an estimated completion
11 date for the investigation. For those closed cases involving a pilot
12 who has been involved in a prior incident and a finding of pilot
13 error had been made, the report shall also include a summary of
14 that incident.

15 ~~SEC. 11.~~

16 *SEC. 12.* Section 1158.1 of the Harbors and Navigation Code
17 is amended to read:

18 1158.1. The executive director shall not, during the term of his
19 or her office, serve as a member of the board or as a pilot, or
20 otherwise be concurrently employed in the maritime industry.

21 ~~SEC. 12.~~

22 *SEC. 13.* Section 1159.1 of the Harbors and Navigation Code,
23 as amended by Section 20 of Chapter 567 of the Statutes of 2008,
24 is amended and renumbered to read:

25 159.2 (a) The vessel shall pay a board operations surcharge,
26 the purpose of which is to fully compensate the board and the
27 Business, Transportation and Housing Agency for the official
28 services, staff services, and incidental expenses of the board and
29 agency. The amount of the surcharge shall be 7.5 percent of all
30 pilotage fees charged by pilots pursuant to Sections 1190 and 1191
31 unless the board establishes, with the approval of the Department
32 of Finance, a lesser percentage, not to exceed any percentage
33 consistent with subdivision (d).

34 (b) The surcharge shall be billed and collected by the pilots.
35 The pilots shall pay all surcharges collected by them to the board
36 monthly or at a later time that the board may direct.

37 (c) The board shall quarterly review its ongoing and anticipated
38 expenses and adjust the surcharge to reflect any changes that have
39 occurred since the last adjustment.

(d) The board operations surcharge shall not represent a percentage significantly more than that required to support the board and any costs of the Business, Transportation and Housing Agency related to the administration of the board pursuant to subdivision (a) in addition to the maintenance of a reasonable reserve.

~~SEC. 13.~~

SEC. 14. Section 1171 of the Harbors and Navigation Code is amended to read:

1171. (a) The board shall have the sole authority to determine the qualifications for obtaining a license as a pilot pursuant to this division, determine who shall have the license, and issue the license.

(b) A person possessing a valid state pilot's license on January 1, 1985, is hereby licensed as if the license was granted by the board.

~~SEC. 14.~~

SEC. 15. Section 1171.5 of the Harbors and Navigation Code is amended to read:

1171.5. (a) The board shall adopt, by regulation, licensing standards that equal or exceed standards for obtaining federal endorsements and that conform with and support the state policy specified in Sections 1100 and 1101.

(b) The board shall adopt reasonable rules and regulations that require pilots to be qualified to perform all pilot duties.

(c) The board shall adopt, by regulation, training standards and a training program for pilot trainees, and continuing education standards and a continuing education program for pilots. In the case of pilot trainees, the training program shall be for a minimum of one year and a maximum of three years. In the case of pilots, the board shall specify the type, nature, duration, and frequency of the continuing education required and the identity of the pilots who are required to undergo continuing education in the next 12-month period. Pursuant to Section 1182, the license of a pilot may be revoked or suspended if he or she fails to complete the continuing education required by this subdivision during the period specified. The board shall also require that an evaluation of the pilot's performance be prepared by the institution selected by the board to provide pilot continuing education, and the institution shall provide copies of the evaluation to the pilot and to the board.

1 (d) The board shall adopt, by regulation, the qualifications,
2 standards, and rating criteria for admission of pilot trainees to the
3 training program. Notwithstanding subdivision (f), the board shall
4 administer and conduct the pilot trainee admission selection in
5 accordance with the regulations for admission.

6 (e) The board shall establish a pilot evaluation committee
7 consisting of five active pilots who each have at least 10 years'
8 experience as a pilot on the Bays of San Francisco, San Pablo, and
9 Suisun. The board shall select the members of the pilot evaluation
10 committee. A member may not serve for more than two four-year
11 terms, except that two of the initial members appointed to the pilot
12 evaluation committee shall serve terms of two years.

13 (f) The pilot evaluation committee shall conduct and supervise
14 the pilot trainee training program pursuant to the direction and
15 regulation of the board and consistent with the intent of this
16 division.

17 (g) The board shall issue a certificate of completion to each
18 pilot trainee who satisfactorily completes the training program.
19 The board shall not issue a pilot's license to a person who does
20 not receive a certificate of completion of the training program from
21 the board, although the board may refuse to issue a pilot license
22 to a pilot trainee who has received this certificate.

23 (h) The training program for pilot trainees and the continuing
24 education program for pilots shall be funded from revenues
25 collected for these purposes as determined by the board pursuant
26 to Sections 1195 and 1196 and deposited into the Board of Pilot
27 Commissioners' Special Fund pursuant to Section 1159.

28 ~~SEC. 15.~~

29 *SEC. 16.* Section 1171.6 is added to the Harbors and Navigation
30 Code, to read:

31 1171.6. (a) There shall be an examination fee to be charged
32 in an amount established by the board to each applicant to the
33 training program who participates in any written or simulator
34 examinations established by the board for the purposes of
35 determining admission to the trainee program pursuant to
36 subdivision (d) of Section 1171.5. The fee shall be charged only
37 to those who actually participate in an examination and shall not
38 exceed the administrative costs to the board of preparing and
39 administering the examination.

(b) The moneys charged and collected from the applicant pursuant to subdivision (a) shall be paid to the board and deposited into the Board of Pilot Commissioners' Special Fund pursuant to Section 1159. The moneys shall be used only to fund the training program in the manner established by the board.

~~SEC. 16.~~

SEC. 17. Section 1176 of the Harbors and Navigation Code is amended to read:

1176. (a) The board shall appoint a physician or physicians who are qualified to determine the suitability of a person to perform his or her duties as a pilot, or a pilot trainee in accordance with subdivision (c).

(b) An applicant for a pilot trainee position or for a pilot license, a pilot trainee, or a pilot seeking renewal of his or her license shall undergo a physical examination by a board-appointed physician in accordance with standards prescribed by the board. Within 30 days prior to the examination, the applicant or licensee shall submit to the physician conducting the physical examination a complete list of all prescribed medications being taken by or administered to the applicant or licensee.

(c) On the basis of both the examination and an evaluation of the effects of the prescription medications named on the submitted list, the physician shall designate to the board whether or not the pilot or pilot trainee is fit to perform his or her duties as a pilot or a pilot trainee.

(d) The license of a pilot or an inland pilot shall not be renewed unless he or she is found fit for duty pursuant to subdivision (c).

(e) If a pilot or a pilot trainee is prescribed either a new dosage of a medication or a new medication, or suspends the use of a prescribed medication, he or she shall, within 10 days, submit that information to the board-appointed physician having possession of the prescribed medication list submitted pursuant to subdivision (b). If the physician receives the updated information, the physician shall determine whether or not the medication change affects the licensee's or trainee's fitness for duty. If the physician determines that the medication change results in the pilot or pilot trainee being unfit for duty, the physician shall inform the board.

(f) The board may terminate a pilot trainee or suspend or revoke the license of a pilot who fails to submit the prescribed medication information required by this section.

1 ~~SEC. 17.~~

2 *SEC. 18.* Section 1180 of the Harbors and Navigation Code is
3 amended to read:

4 1180. If, in the opinion of the board, there is reasonable cause
5 to believe that the public interest requires that a pilot be summarily
6 suspended pending hearing on charges of misconduct that include
7 any of the causes for suspension or revocation specified in Section
8 1181 or if the board has information that leads it to believe that a
9 pilot has become unable to comply with the standards of health or
10 physical condition requisite to a pilot's duties, the board may,
11 without hearing, temporarily suspend the license of the pilot for
12 not exceeding 40 days pending hearing and decision on the charges.
13 Unless an accusation on the charge is served on the pilot as
14 provided in Chapter 5 (commencing with Section 11500) of Part
15 1 of Division 3 of Title 2 of the Government Code, prior to the
16 close of the sixth day after the suspension becomes effective, the
17 temporary suspension terminates at the close of the sixth day.

18 ~~SEC. 18.~~

19 *SEC. 19.* Section 1180.3 of the Harbors and Navigation Code
20 is amended to read:

21 1180.3. (a) The board shall establish an incident review
22 committee, which shall be composed of one public member of the
23 board and the executive director. The board shall delegate to the
24 incident review committee the responsibility to review all reports
25 of misconduct or navigational incidents involving pilots or other
26 matters for which a license issued by the board may be revoked
27 or suspended. This subdivision does not apply to an incident
28 involving a pilot aboard a vessel of less than 300 gross tons unless
29 a pilot is required by law.

30 (b) The incident review committee, with the assistance of one
31 or more investigators, shall investigate the incident, misconduct,
32 or other matter and prepare a written report. The incident review
33 committee may call witnesses and request additional information
34 if the incident review committee considers it necessary to conduct
35 a complete investigation. In performing their duties, the members
36 of the incident review committee and its investigators shall act
37 fairly and impartially and shall treat all matters developed or
38 maintained as required by law. The members of the incident review
39 committee and the investigators shall not discuss any investigation
40 with the board or any member of the board until the matter has

1 been finally disposed of by the incident review committee or final
2 action has been taken by the board, as appropriate. The board shall
3 specify, by regulation, the information to be contained in the report,
4 which shall include, but need not be limited to, the following
5 information relating to the incident, misconduct, or other matter:

6 (1) The name of the vessel, date, location, and identification of
7 the pilot.

8 (2) A description of the weather and sea conditions.

9 (3) An illustration and description of the incident, misconduct,
10 or other matter under investigation.

11 (4) An estimate of the damages, if any.

12 (5) The names of the witnesses providing information relating
13 to the incident, misconduct, or other matter under investigation.

14 (6) The nature and extent of any injuries.

15 (7) A summary of any prior investigations of incidents,
16 misconduct, or other matters involving the same pilot designated
17 pursuant to paragraph (1).

18 (8) Any relevant correspondence or records from the United
19 States Coast Guard relating to the incident, misconduct, or other
20 matter under investigation.

21 (9) A historical record of the actions taken in the investigation
22 and the action taken pursuant to Section 1180.6.

23 (10) A summary of the factual background of the incident,
24 misconduct, or other matter investigated.

25 (11) The following information that is not a part of the public
26 record:

27 (A) The report from the pilot.

28 (B) The confidential report of the investigator.

29 (c) Unless an accusation for suspension or revocation of the
30 pilot's license is served on the pilot as provided in Chapter 5
31 (commencing with Section 11500) of Part 1 of Division 3 of Title
32 2 of the Government Code, the incident review committee shall
33 present the completed investigation report to the board at the first
34 monthly meeting of the board after the completion of the report.
35 Unless an extension is granted by the board, the report shall be
36 presented within 90 days of the date of the incident, misconduct,
37 or other matter investigated.

38 (d) The record of the investigation prepared pursuant to
39 subdivision (b) and the final disposition of the incident,
40 misconduct, or other matter shall be retained in the records of the

1 board for 10 years after the completion of the investigation and,
2 except for the items listed in paragraph (11) of subdivision (b),
3 shall be a public record.

4 ~~SEC. 19.~~

5 *SEC. 20.* Section 1180.6 of the Harbors and Navigation Code
6 is amended to read:

7 1180.6. (a) The board, after full consideration of the evidence,
8 report, and recommendations presented by the incident review
9 committee relating to an incident, misconduct, or other matter
10 pursuant to Section 1180.3, shall take one or more of the following
11 actions:

12 (1) Serve an accusation for suspension or revocation of the
13 pilot's license on the pilot as provided in Chapter 5 (commencing
14 with Section 11500) of Part 1 of Division 3 of Title 2 of the
15 Government Code, pursuant to Sections 1181 and 1182.

16 (2) Enter into a written stipulation for corrective action to be
17 performed by the pilot, which may include, but is not limited to,
18 further training or supervised practice trips.

19 (3) Provide counseling for the pilot relating to the duties and
20 obligations of a pilot.

21 (4) Issue a warning letter of reprimand to the pilot.

22 (5) Take any other action, as provided in the guidelines adopted
23 pursuant to subdivision (e).

24 (6) Close the investigation without further action.

25 (7) Remand the matter to the incident review committee for
26 further investigation.

27 (b) Action required pursuant to subdivision (a) shall be taken
28 by a majority vote of the board.

29 (c) A member of the board shall not sit on the board as a trier
30 of fact for those cases in which he or she has served on the incident
31 review committee recommending action to the board.

32 (d) The executive director shall note any action taken by the
33 board pursuant to this section in a pilot's record and shall establish
34 a suspense file to ensure that all training, practice trips, or other
35 corrective action required to be performed pursuant to subdivision
36 (a) by the pilot are completed as required. The executive director
37 shall report to the board each month on the progress of any training,
38 supervised practice trips, or other corrective action or the
39 completion of any other action required pursuant to subdivision
40 (a).

(e) The executive director shall notify the board of a pilot who fails, or refuses, to complete training, practice trips, or other corrective action imposed by the board pursuant to subdivision (a). If the board determines that the pilot has intentionally failed to complete training, practice trips, or other corrective action, the board may take additional action as specified in subdivision (a).

(f) The board shall adopt guidelines for the determination by the incident review committee of the action to be taken pursuant to subdivision (a) at the completion of an investigation conducted pursuant to Section 1180.3.

~~SEC. 20.~~

SEC. 21. Section 1181 of the Harbors and Navigation Code is amended to read:

1181. The license of a pilot may be revoked or suspended before its expiration only for reasons of misconduct, which shall include, but not be limited to, the following:

(a) Neglect, for 30 days after it becomes due, to render an account to the board of all money received for pilotage.

(b) Neglect, for 30 days after it becomes due, to pay over to the board the percentage of all pilotage money received, as set by the board.

(c) Rendering to the board a false account of pilotage received.

(d) Absence from duty for more than one month at any one time without leave granted by the board, unless sickness or personal injury causes the absence.

(e) Refusing to exhibit the pilot license when requested to do so by the master of any vessel boarded.

(f) Intoxication or being under the influence of any substance or combination of substances that so affects the nervous system, brain, or muscles as to impair, to an appreciable degree, the ability to conduct the duties of a pilot while on duty.

(g) Negligently, ignorantly, or willfully running a vessel on shore, or otherwise rendering it liable to damage, or otherwise causing injury to persons or damage to property. However, this subdivision does not apply to a vessel of less than 300 gross tons unless a pilot is required by law.

(h) Willful violation of the rules and regulations adopted by the board for the government of pilots.

(i) Inability to comply with the standards of health or physical condition requisite to the duties of a pilot, but in that case the

1 burden of proving compliance with these standards is upon the
2 licensee, unless prior to the hearing the licensee takes and passes
3 those tests or examinations required by the board.

4 (j) Failure or refusal, to complete training, practice trips, or
5 other corrective action imposed on that pilot by the board pursuant
6 to Section 1180.6.

7 ~~SEC. 21.~~

8 *SEC. 22.* Section 1182 of the Harbors and Navigation Code is
9 amended to read:

10 1182. If, after a hearing, the board finds that the pilot is guilty
11 of misconduct sufficient for deprivation of the license, the board
12 shall revoke or suspend the license of the pilot. The order shall be
13 entered in the minutes and placed in the record of the pilot
14 maintained pursuant to Section 1157. The proceedings shall be
15 conducted in accordance with Chapter 5 (commencing with Section
16 11500) of Part 1 of Division 3 of Title 2 of the Government Code,
17 and the board shall have all the powers granted pursuant to that
18 chapter.

19 ~~SEC. 22.~~

20 *SEC. 23.* Section 1183 of the Harbors and Navigation Code is
21 amended to read:

22 1183. (a) Upon notification of nonrenewal of the license, a
23 pilot is entitled to a trial and hearing in the same manner that other
24 charges and accusations against pilots are tried.

25 (b) In every case of nonrenewal, suspension, or revocation of
26 the license of a pilot for cause, the final decision of the board is
27 subject to judicial review in accordance with law, and the court
28 shall exercise its independent judgment on the evidence.

29 ~~SEC. 23.~~

30 *SEC. 24.* Section 1191 of the Harbors and Navigation Code is
31 amended to read:

32 1191. (a) The board, pursuant to Chapter 6 (commencing with
33 Section 1200), shall recommend that the Legislature, by statute,
34 adopt a schedule of pilotage rates providing fair and reasonable
35 return to pilots engaged in ship movements or special operations
36 if rates for those movements or operations are not specified in
37 Section 1190.

38 (b) A vessel using pilots for ship movements or special
39 operations that do not constitute bar pilotage shall pay the rate

1 specified in the schedule of pilotage rates adopted by the
2 Legislature.

3 (c) Consistent with the board's adoption of rate
4 recommendations in May 2002, the minimum rates imposed
5 pursuant to this section that are in effect on December 31, 2002,
6 shall be increased by 26 percent on January 1, 2003; those in effect
7 on December 31, 2003, shall be increased by 26 percent on January
8 1, 2004; those in effect on December 31, 2004, shall be increased
9 by 14 percent on January 1, 2005; and those in effect on December
10 31, 2005, shall be increased by 14 percent on January 1, 2006.

11 ~~SEC. 24.~~

12 *SEC. 25.* Section 1196 of the Harbors and Navigation Code is
13 amended to read:

14 1196. (a) In addition to other fees for pilotage, there shall be
15 a surcharge in an amount established by the board for each
16 movement of a vessel using pilot services for the pilot continuing
17 education program established by the board.

18 (b) The moneys charged and collected each month from the
19 pilot continuing education program surcharge shall be paid to the
20 board. The moneys shall be used only to fund the pilot continuing
21 education program in the manner established by the board.

22 (c) By action of the board, the board may adjust the amount
23 established pursuant to subdivision (a) as necessary to efficiently
24 administer the pilot continuing education program.

25 ~~SEC. 25.~~

26 *SEC. 26.* Section 1196.1 of the Harbors and Navigation Code
27 is amended to read:

28 1196.1. (a) The moneys charged and collected each month
29 from the pilot continuing education surcharge pursuant to Section
30 1196 shall be paid to the Board of Pilot Commissioners' Special
31 Fund pursuant to Section 1159. The moneys shall be used only to
32 fund the pilot continuing education program referred to in
33 subdivision (h) of Section 1171.5 and Section 1196.3.

34 (b) Information regarding moneys remitted to the Board of Pilot
35 Commissioners' Special Fund pursuant to Section 1159 collected
36 from the surcharge authorized pursuant to Section 1196, or
37 otherwise collected by the board for that purpose, and information
38 regarding moneys spent as pilot continuing education expenses
39 authorized by Section 1196.3 shall be made available to the public
40 upon request and to the board or its finance committee.

1 ~~SEC. 26.~~

2 *SEC. 27.* Section 1196.3 of the Harbors and Navigation Code
3 is amended to read:

4 1196.3. Pilot continuing education expenses shall include all
5 costs incurred by the board in the operation and administration of
6 the pilot continuing education program and all costs resulting from
7 any contracts entered into for the purchase or lease of goods and
8 services required by the board, including, but not limited to, the
9 reimbursement of costs of services provided to the board by other
10 governmental entities and for the costs for any other goods and
11 services necessary for effectuating the purposes of continuing
12 education as determined by the board.

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